

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1009 of 1997

WITH

CIVIL APPLICATION NO. 9036 OF 1997

IN

SPECIAL CIVIL APPLICATION No 2172 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE S.M.SONI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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BASANT PRASAD TIWARI S/O                      SADHU PRASAD TIWARI

Versus

UNION OF INDIA

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Appearance:

MR LA OGHANI for Petitioner

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE S.M.SONI

Date of decision: 24/09/97

ORAL JUDGEMENT (Per Patel, J.)

The appellant has preferred this appeal being aggrieved by the order passed on 29.07.1997 by the learned Single Judge (Coram: Ms. R.M. Doshit, J.) in Special Civil Application No. 2172 of 1997 challenging the order of transfer.

2. The appellant was working in Ahmedabad as a Constable (Fire) in the Railway Protection Force, and he was transferred from Ahmedabad to Kota, in the same Zone, by order dated 10.3.1997. The petitioner has alleged that the transfer is actuated by malafide and bias, on account of several complaints made in respect of irregularities committed by superior authorities. The learned Single has observed that on account of the complaint, the concerned railway servants have been punished, and, therefore, it is not correct to say that the appellant has been transferred on account of the complaints made by him.

3. Learned advocate for the appellant initially contended that the transfer is bad in view of Rule 91.1 of the Railway Protection Force Rules, 1987. The said rule reads as under:-

91. Inter-zonal transfer:-

91.1 Superior officers of the Force:

The Director General on the recommendations of the Chief Security Commissioner concerned or otherwise may transfer any superior officer from one zonal railway or from Railway Protection Special Force to a zonal railway or vice versa in the interest of administration of the Force.

4. On realising that the said Rule relates to inter zonal transfer of superior officers of the force, the learned advocate subsequently submitted that the transfer is in violation of the provisions of Rule 91.2 of the Rules. The said Rule reads as under:-

91. Inter-zonal transfer

91.1 Superior officers of the force.

xxx xxxx

91.2 Enrolled members of the Force.

All inter-zonal transfers of the enrolled members of the Force shall be ordered by the Chief Security Commissioner concerned after obtaining the concurrence of the Director

General.

5. According to the learned Advocate, the transfer order is in violation of this order. We fail to understand this submission because this Rule pertains to inter-zonal transfer, whereas the transfer in the instant case is within the same zone, as Ahmedabad and Kota falls within the same zone as stated by the learned Advocate. Therefore, there is no merit in this submission.

6. Learned advocate submitted that he may be granted some time. Aggrieved by the judgment of the learned single Judge, the appeal is preferred and urgently circulated by the learned advocate. We are not inclined to grant any time because the request for time is sought after hearing the matter, when it is felt that the Court is not likely to pass an order as desired by the Advocate.

7. In the result, the appeal stands rejected summarily. Consequently, the Civil Application does not survive, and it stands disposed of accordingly.

csm./ -----